

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW HAMPSHIRE**

THE UNITED STATES OF AMERICA

v.

No. 1:18-cr-00098-PB

JOSEPH FOISTNER

ASSENTED-TO MOTION TO CONTINUE SENTENCING HEARING

The defense requests, with the assent of the government, to continue the sentencing hearing currently scheduled for April 7, 2022, to a date approximately 45 days later, for the reasons set forth below:

1. After a bench trial in which he represented himself, with standby counsel, the defendant, Joseph Foistner, was convicted of 9 criminal charges including bank fraud, wire fraud, money laundering, and false statements in bankruptcy proceedings.
2. The undersigned was standby counsel during the trial and was appointed after the trial as full counsel for Mr. Foister for the purposes of sentencing. Mr. Foistner requested and accepted the appointment.
3. As the court and government are aware, Mr. Foistner has a number of medical issues. The nature and impact of those medical issues has been the subject of some discussion, if not dispute, throughout the case.
4. Since being appointed for sentencing, the defense has worked to get a sufficient set of medical records to have a full picture of Mr. Foistner's current health. So far, the defense has received 572 pages of medical records from four sources. There is at least one additional significant source of records. Those have been requested and the defense

expects to receive those in the near future but not in sufficient time to prepare for the sentencing hearing a month from now.

5. The defense also seeks to have an expert review Mr. Foistner's medical issues for the purpose of giving an opinion, in a report and possibly testimony, regarding how incarceration would affect Mr. Foistner's medical condition. Counsel seeks an opportunity to have that expert review all of the medical records, when they are available, in order to provide that assistance. After that, of course, the government will be entitled to an opportunity to review the report and seek its own expert if it so desires.

6. The foregoing steps are necessary for the defense to make an effective sentencing presentation and for the court to have the information it needs to impose a fair and just sentence.

7. After discussion of the foregoing, counsel for the government stated their assent to the requested continuance of 45 days.

8. Mr. Foistner is in agreement with this request as well.

WHEREFORE, the defense requests that the sentencing hearing currently scheduled for April 7, 2022, be rescheduled to a date approximately 45 days thereafter.

Respectfully submitted, this 5th day of March, 2022, by counsel for the defendant,

/s/ Richard Guerriero
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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system, will be sent electronically to the registered Participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on the date the document was signed by me.

/s/ Richard Guerriero